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March 28, 2019

Via Email

Shawn Musgrove
c/o MuckRock News
DEPT MR 70102
411A Highland Ave.
Somerville, MA 02144-2516
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RE: Your Recent Public Records Request (DOJ PRA 2019-00489)

Dear Mr. Musgrove:

This letter is in response to your correspondence received by the California Department of Justice (DOJ) on February 28, 2017, requesting records under the Public Records Act. (Gov. Code, § 6250 et seq.) We sent you a letter extending our time to respond to March 25, 2017.

Specifically, you requested that we provide the following:

All emails to and from the below individuals that include the below keywords between January 1, 2019 and the date this request is processed.

Individuals:

*Attorney General Becerra
Deputy Attorney General Michelle M. Mitchell*

Keywords: "Lewis," "Paladino," "Commission on Post Officer Standards and Training," "Commission on POST," "Investigative Reporting Program," [and] "Berkeley"

As an initial matter, we note that you have included "Commission on Post Officer Standards and Training" among the search terms for your request. We are interpreting this to be seeking email with the term "Commission on **Peace** Officer Standards and Training." We have located records responsive to your request. Enclosed are non-exempt responsive records. Among these non-exempt records are invitations and meeting requests (with one or more of the keywords you

identified) that have been declined or the date of the event has passed. In general, we do not release information regarding invitations and events that have not yet been accepted or that have not occurred for security reasons. The public interest in our security detail having the opportunity to evaluate the security of the Attorney General should he opt to accept an invitation clearly outweighs the public interest in this information. (Gov. Code, § 6255.) Lastly, we also decline to provide records that are exempt from disclosure because they reflect deliberative process or are privileged.

Attorney Work-Product and Attorney-Client Privilege Exemption: Confidentiality privileges set forth elsewhere in law, including the attorney-client privilege contained in Evidence Code section 954 (which protects confidential communications between the attorney and the client) and the attorney work-product privilege contained in Code of Civil Procedure section 2018.030 (which protects any writing reflecting an attorney's impressions, conclusions, opinions, legal research, or legal theories that is maintained as confidential) are incorporated into the CPRA. (Gov. Code, § 6254, subd. (k); *Roberts v. City of Palmdale* (1993) 5 Cal.4th 363; *County of Los Angeles v. Superior Court* (2000) 82 Cal.App.4th 819, 833.)

The attorneys in our department provide legal advice to the Attorney General and his designees and prepare confidential analyses as part of their work. Accordingly, communications between the Attorney General or his designees and the department's attorneys, and analyses prepared by those attorneys are privileged materials exempt from disclosure under the CPRA.

Deliberative Process Exemption: The deliberative process privilege exempts from disclosure materials that would expose an agency's decision making process in such a way as to discourage candid discussion within the agency and thereby undermine the agency's ability to perform its functions. Even if the content of a document is purely factual, it is nonetheless exempt from public scrutiny if it is actually related to the process by which policies are formulated or, if it is inextricably intertwined with policymaking processes. (*Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325.) Records that reveal deliberative processes are exempt under Government Code section 6255 when the public interest in disclosure is clearly outweighed by the public interest in non-disclosure. (*Citizens for Open Government v. City of Lodi* (2012) 205 Cal.App.4th 296, 306.)

In the instant case, records such as analyses, draft language, and memoranda concerning the strengths and weaknesses of a particular proposal would be covered by the deliberative process privilege and, therefore, absent special circumstances would be exempt from disclosure under Government Code section 6255.

Sincerely,

/s/ Public Records Coordinator

Public Records Coordinator

For XAVIER BECERRA
Attorney General